

COASTAL CONSERVANCY

Staff Recommendation

June 29, 2006

ACCEPTANCE OF PUBLIC ACCESS EASEMENTS

File No. 01-082

Project Manager: Trish Chapman/Joan Cardellino

RECOMMENDED ACTION: Authorize the acceptance of offers to dedicate public access easements over four separate properties located in Santa Cruz, Monterey, and Orange counties for eventual transfer to the California Department of Parks and Recreation.

LOCATION: Santa Cruz, Monterey, and Orange Counties

PROGRAM CATEGORY: Dedications, Public Access

EXHIBITS

Exhibit 1: Project Location Maps and Site Photos

Exhibit 2: Raiche OTD

Exhibit 3: Ventana Inn OTDs

Exhibit 4: Santa Lucia OTDs

Exhibit 5: Elmore OTD

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31104.1 and 31400-31409 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the acceptance of the following Offers to Dedicate public access easements:

- a. A lateral access easement over the former Raiche property, recorded in the Official Records of Santa Cruz County as document number 064914 in Volume 4228, pages 395 through 450, on September 28, 1987, and located at 60 Geoffrey Road, Live Oak Area, City of Santa Cruz County, Santa Cruz County Assessor’s Parcel Number 028-143-34, as shown in Exhibit 2;
 - b. Five separate public access easements over the Ventana Inn property, all recorded in the Official Records of Monterey County on December 5, 1986, as follows: instrument number 66041, Reel 2033, pages 708 through 839; instrument number 66046, Reel 2033, pages 932 through 948; instrument number 66047, Reel 2033, pages 949 through 964;
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instrument number 66048, Reel 2033, pages 965 through 976; and instrument number 66049, Reel 2033, pages 977 through 991; and located at east of Highway 1 approximately 3.5 miles south of Big Sur Village, Big Sur, Monterey County Assessor's Parcel Numbers 419-311-021, 419-321-001, 419-321-007, and 419-321-010, as shown in Exhibit 3;

- c. A vertical and a lateral access easement and an open space scenic easement over the Santa Lucia Company property, both recorded on December 11, 1992, in the Official Records of Monterey County, as document number 88613, Reel 2884, pages 180 through 215, and as document number 88614, Reel 2884, pages 216 through 227, respectively, and located west of Highway 1 between Lime and Dolan Creeks, Big Sur, Monterey County Assessor's Parcel Number 421-001-002, as shown in Exhibit 4;
- d. A vertical access easement over the former Elmore property, recorded in the Official Records of Orange County as document number 87-390250, on July 9, 1987, and located at the intersection of Avenida del Presidente and Christianitos Road, City of San Clemente, as shown in Exhibit 5;

Prior to recording a Certificate of Acceptance on any of the above Offers to Dedicate, the Executive Officer of the Conservancy ("Executive Officer") shall review and approve the condition of title and shall determine that no other public agency or appropriate entity has accepted the Offer or equivalent interest in the property offered for dedication.

The Conservancy further directs the Executive Officer to transfer ownership of the easements to the Department of Parks and Recreation (DPR) for permanent public access purposes. If DPR is unable to accept any of the easements for any reason, the Conservancy directs the Executive Officer to identify one or more public agencies or nonprofit conservation organizations willing and able to hold and manage for public use the easement(s) that DPR is unable to accept, and to transfer ownership of the easement(s) to such entities for permanent public access purposes. Any transfer pursuant to this authorization will comply with the requirements of Public Resources Code Section 31402.3 and the Executive Officer is authorized to take all actions necessary to accomplish the transfer."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

- 1. The proposed action is consistent with the authority and responsibilities of the Conservancy under Public Resources Code Section 31104.1 to serve as a repository for lands whose reservation is required to meet the policies and objectives of the Coastal Act;
- 2. The proposed action is consistent with the purposes and objectives of Sections 31400-31409 of the Public Resources Code; and
- 3. The proposed action is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001."

PROJECT SUMMARY:

The proposed project would authorize the Conservancy to accept Offers to Dedicate public access easements (OTDs) in Santa Cruz, Monterey, and Orange Counties. The Department of Parks and Recreation (DPR) is willing to take over ownership and management of the easements created by acceptance of these OTDs, if the Conservancy will assist in the process by accepting the OTDs and then transferring the easements to DPR.

For several months, the Conservancy, Coastal Commission, and DPR have worked together to identify the remaining OTDs that DPR would be willing to own and manage. The Conservancy has already accepted several OTDs that will be transferred to DPR to manage and maintain and is currently in the process of accepting two more. These OTDs were accepted under the authority delegated by the Conservancy to its Executive Officer with respect to OTDs that are within 90 days of expiration. Staff is recommending that the Conservancy accept the remaining OTDs identified by DPR now, rather than waiting until 90 days prior to their expiration. This would enable the Conservancy to coordinate transfer of all the easements at one time, saving staff time for both the Conservancy and DPR and helping to expedite the future opening of the easements.

The Conservancy has, by prior delegation, authorized the Executive Officer to accept any unaccepted OTD within 90 days of its expiration date. Since the OTDs which are the subject of this staff recommendation would be accepted more than 90-days before expiration, Conservancy authorization is needed. Under the proposed authorization, following acceptance, Conservancy staff will endeavor to transfer all of the easements to DPR. In case any issues should arise which make it impossible to transfer one or more of the easements to DPR, the proposed authorization gives the Executive Officer the authority to find another suitable entity to take the easement without additional Conservancy approval.

Site Descriptions:

1. The Raiche OTD is located on property at Black's Point in the City of Santa Cruz. The easement would allow lateral public access and passive recreational use along the shoreline and beach for the entire length of the property. The width of the easement would be from the mean high tide line to the toe of the bluff and/or existing seawall. The property is adjacent to Twin Lakes State Beach and the easement would expand the amount of shoreline and beach available for public use. Once transferred to DPR, no additional action would be needed to open the accessway.
2. The Ventana Inn property has five OTDs recorded on it that would provide lateral access for pedestrians and equestrians along the length of the property and access from Highway 1 to those portions of Coast Ridge Road which lie within the property boundary. The lateral access would link Ventana with Pfeiffer-Big Sur State Park, and the Coast Ridge Road would provide access to Los Padres National Forest.

There are three OTDs that constitute the lateral access across the property. The easement corridors described by these OTDs vary in width to allow for flexibility in defining the trail location within the corridor. The two wider-corridor easements would be revised to a 25-foot width once a trail has been constructed. Once the easements have been accepted and transferred to DPR, a trail will need to be designed with required input from the Coastal Commission and the property owner and then constructed. The other two OTDs provide for access from Highway 1 to Coast Ridge Road and over those portions of the road that lie

within the property. Upon acceptance and transfer to DPR, design and construction of the trail within these corridors would also occur.

3. The Santa Lucia property has two OTDs recorded on it. The first OTD provides for both lateral and vertical access. The lateral easement would be 25-feet wide and would run approximately 0.75 miles from the northern property boundary to the southern boundary. The easement would be located west of Highway 1 within an 80-foot corridor from the highway. The vertical easement would be 10 feet wide. It would start at Highway 1 and extend northwest to the shoreline. The property is located immediately down coast of John Little State Reserve, and the easements would provide a trail connection to the loop trail at the Reserve. In order to open the accessways, the location of the lateral easement will need to be agreed upon and a trail will need to be constructed. This OTD also requires that, as a condition of acceptance, the accepting entity agree to accept “the full responsibility for maintenance and liability of the Easements”. Given that the easements require trail development prior to public use and may not be opened until that time, these obligations impose little present burden.

In addition to the access OTDs, there is also an OTD for an open space scenic easement over those portions of the property that are visible from Highway 1. The scenic easement is consistent with the County’s policies for protecting the scenic viewshed along Highway 1 through Big Sur and makes these protections permanent.

4. The Elmore easement is located in San Clemente. Combined with an OTD already accepted by the Conservancy, it provides an alternate access to Trestles beach, a world-renowned surf beach that is part of San Onofre State Beach in southern Orange County. The easement is conditioned so that it cannot be opened unless and until the existing access to Trestles across the adjacent Coast Guard property is no longer available to the public or is unreasonably restricted for public use. Because of this restriction, no action will be taken to open the easement immediately following acceptance and transfer.

Project History: Since its creation, the Conservancy has worked with the Coastal Commission and other partner organizations to ensure acceptance of offers to dedicate interests in real property that have been recorded pursuant to the provisions of the Coastal Act in order to provide public access to and along the coast or to preserve coastal open space and view corridors. The partnership originally envisioned by the Coastal Commission for the eventual development of OTDs was that the Commission would require the offers, local governments would accept them, and the Conservancy would provide funding and technical assistance as needed to design and construct the appropriate facilities to make the easements useable.

This approach worked reasonably well over the years, but provided no assurance that OTDs would not be allowed to expire. In 2002, the State Legislature changed the Conservancy’s enabling legislation to require the Conservancy to accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date. Once accepted, the Conservancy seeks to transfer the easement to an appropriate public agency or nonprofit organization to own and manage the accessway.

DPR has agreed to own and manage several of the OTDs located adjacent to State Parks or Beaches. However, DPR has not had sufficient staff resources to accept these OTDs prior to their

expiration. Therefore, SCC has accepted them on behalf of DPR and subsequently transferred them.

PROJECT FINANCING:

No expenses are anticipated at this time.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

Public Resources Code Section 31104.1 directs the Conservancy to serve as repository for lands whose reservation is required to meet the objectives and policies of the Coastal Act of 1976 (Public Resources Code Sections 30000 *et seq.*) Pursuant to this authority, the Conservancy may accept dedication of fee title, easements, development rights or other interests in lands, including interests required to provide public access to recreation and resources areas in the coastal zone.

In its action on the permits referenced in the OTDs which are the subject of this recommendation, the California Coastal Commission determined that it could not approve development consistent with the policies and objectives of the Coastal Act, except on condition that public access be provided. Reservation of the dedicated easement areas is required to meet the policies and objectives of the Coastal Act, and it is appropriate under Section 31104.1 that the Conservancy serves as a repository for these interests in property until they can be transferred to an appropriate entity for public use and management.

The acceptance of the OTDs is also consistent with the Conservancy's legislative mandate to have a principal role in the implementation of a system of coastal accessways under Chapter 9 of Division 21 of Public Resources Code (Sections 31400 to 31409). Section 31402 provides that, in order to assure that an adequate system of public accessways is provided along the entire coastline, the Conservancy may acquire fee title or lesser interests in areas required for public access to significant coastline resources. By accepting these OTDs, the Conservancy preserves the public access to scenic areas of the coast, even though at present these easements may not connect to larger beaches or trails. In addition, the legislative has made it clear that timely acceptance of offers to dedicate recorded pursuant to the Coastal Act, including those accessways that protect open space and have the potential to provide coastal access to the shoreline and to views, is an important function of the Conservancy in meeting its accessway objectives (Section 31402.1). Finally, consistent with Section 31404, the Conservancy proposes to accept ownership of the easement interests, because DPR is not able to do so in a timely manner and, after acceptance the Conservancy will make every effort to transfer the easements to other suitable entities if DPR is unable to accept transfer, as contemplated.

**CONSISTENCY WITH CONSERVANCY'S
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 1 Objective D** of the Conservancy's Strategic Plan, the proposed project would preserve approximately 1.25 miles of Coastal Trail right of way.

Consistent with **Goal 2 Objective C** of the Conservancy's Strategic Plan, the proposed project would result in the acceptance of eight public access OTDs on four properties, which will

eventually be owned and managed by DPR.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** This is essentially an administrative item since no perceptible changes in use of these properties will occur. Therefore, no letters of support have been solicited.
4. **Location:** The project would be located within the coastal zones of the City of Santa Cruz, County of Monterey, and City of San Clemente.
5. **Need:** DPR does not have the staff resources to go through the process of accepting the easements directly. Their willingness to take and manage the easements is contingent on the Conservancy assisting in the process.
6. **Greater-than-local interest:** Preserving access points for now and the future is of statewide importance to ensure that the State's growing population has access to a variety of beach locations and experiences.

Additional Criteria

15. **Cooperation:** This project is the result of ongoing cooperation between the Conservancy, Coastal Commission and DPR to accept and open public access easements along the coast.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

Acceptance of the Raiche OTD is consistent with the City of Santa Cruz's Local Coastal Program for public access. Land Use Policy 3.5 calls for enhancing public access and recreational enjoyment of the coast.

Acceptance of the Ventana Inn and Santa Lucia OTDs are consistent with the County of Monterey's Local Coastal Program policies for public access in the Big Sur region. Policy 6.1.3 states that "the rights of access to the shoreline, public lands, and along the coast, and opportunities for recreational hiking access, shall be protected, encouraged and enhanced."

Acceptance of the Elmore OTD is consistent with the City of San Clemente's Local Coastal Program for public access. Goal IX is to "provide and maintain a comprehensive and safe beach access network and improve the City's public coastal access system whenever possible."

COMPLIANCE WITH CEQA:

In connection with the issuance of the permits under which the OTD's were required, the California Coastal Commission analyzed the environmental effects of the permits and their conditions, including the public access that would be realized upon acceptance of the required OTD's. No further environmental assessment is required under CEQA.

Nonetheless, acceptance of the OTDs is categorically exempt from the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15313 (Class 13), regarding the acquisition of land for wildlife conservation purposes, including preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition; and under 14 Cal. Code of Regulations Section 15317 (Class 17), regarding the acceptance of easements in order to maintain the open space character of an area.

Further, the subsequent transfer of these OTDs, as additionally authorized by the Board resolution, is also exempt from CEQA pursuant to 14 Cal. Code of Regulations Section 15325 which allows for transfers of ownership of interests in land in order to preserve open space, habitat, or historical resources.

Staff will file Notices of Exemption upon approval of the acceptance of these OTDs.